

## Exhibit 51

To Defendants' Memorandum in Support of Motion for  
Summary Judgment

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT COURT OF MARYLAND

CASE NO. 13-CV-02841-CCB

STEPHEN V. KOLBE, et al.,  
Plaintiffs,

vs.

MARTIN O'MALLEY, et al.,  
Defendants.

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DEPOSITION OF: GARY KLECK

TAKEN AT THE INSTANCE OF: The DEFENDANTS

DATE: January 2, 2014

TIME: Commenced at 2:36 p.m.  
Concluded at 6:33 p.m.

LOCATION: 600 West Gaines Street  
Tallahassee, FL

REPORTED BY: JUDY CHIN  
judychin@embarqmail.com  
RPR, CRR

ACCURATE STENOGRAPHY REPORTERS, INC  
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TALLAHASSEE, FL 32308 (850)878-2221

1           Q     So people certainly could flee in multiple  
2 different directions while a shooter was shooting, is  
3 that right?

4           A     Correct.

5           Q     And if you assume there were four exits as  
6 there are in most theaters, two into the theater complex  
7 and two out somewhere else, you would have had four  
8 different places where people could have been running,  
9 is that right?

10          A     Possibly.

11          Q     And in the time that it would take Mr. Holmes  
12 to change magazines, is it possible that additional  
13 people could have gotten out if he had had 10-round  
14 magazines instead of a 100-round drum?

15          A     It's possible, but I don't think there was any  
16 affirmative evidence of it. But, sure, it is a logical  
17 possibility.

18          Q     And, in fact, if he was firing with two  
19 100-round drums, in order to get off two 100-rounds, he  
20 only needed to reload once, is that right?

21          A     I'm not sure. You said 200-round drum? Did  
22 you mean 100?

23          Q     I meant two 100-round drums.

24          A     Okay.

25                     Yes, he would have had to reload once.

1           Q       Whereas if he had been working with 10-round  
2 magazines, he would have needed to reload 19 times to  
3 fire the same number of rounds, is that right?

4           A       Yes.

5           Q       Is the Tucson incident on here?

6           A       Yes.

7           Q       And which incident is that on the rate of fire  
8 page?

9           A       Oh, you are asking is it on the rate of fire  
10 incident? I don't know that. It's included in the  
11 appendix among the set of incidents I covered.

12          Q       January 8th, 2011. So it appears not to be in  
13 the appendix for the rate of fire in mass shootings.

14          A       It is not in table one, yes.

15                 It is included in the appendix as a scenario,  
16 but it is not included in the rate of fire data.

17          Q       Now, in the appendix as a scenario, there is  
18 an indication that it took five minutes from the first  
19 shot to the end. I assume that comes from press  
20 accounts?

21          A       Yes.

22          Q       That was an outdoor incident, correct?

23          A       Correct.

24          Q       In outdoor incidents would you expect it to be  
25 much easier for people to flee?

1 A On average, yes.

2 Q Does it strike you as improbable that there  
3 would still be people in the area to be shot five  
4 minutes after an outdoor shooting incident began?

5 MR. SWEENEY: Objection.

6 THE WITNESS: No. It doesn't strike me as  
7 improbable.

8 BY MR. FADER

9 Q Why not?

10 A Some people just panic. Some people freeze.  
11 They react in all sorts of irrational ways. Some react  
12 instinctively to flee and some react instinctively to be  
13 as still as possible.

14 Q I assume that it is true that for each of  
15 these incidents you don't have somebody with a stopwatch  
16 calculating exactly the first and the last shots, right?

17 A Yes. With few exceptions. It depends on  
18 eyewitness estimates.

19 Q What are the exceptions?

20 A Well, the exceptions would be, like if  
21 somebody has made a 911 call and they leave the phone  
22 open, then the police will be recording the call as they  
23 normally would. And so you can hear gunshots on the  
24 tape, the audiotape, and therefore a more accurate  
25 timing is possible.

1 and the way that law enforcement officers use them?

2 A No, I'm not aware of any such study.

3 Q Any there any studies that look at how  
4 civilians use fire arms in self-defense as far as how  
5 they actually use the firearms, not whether they do?

6 A Yes. My survey with Marc Gertz asked people  
7 what they had done with the gun. And so we got a few  
8 basic details, like whether they fired the gun, whether  
9 they thought they wounded the offender and so on.

10 Q And that would be contained in the  
11 computerized data set of information that you have on  
12 your computer?

13 A Correct.

14 Q Are there any firearms that you believe should  
15 be banned?

16 A Machine guns. Fully-automatic weapons.

17 Q Why?

18 A Because they are indiscriminate fire. They  
19 are very different to control. They are not fired one  
20 shot at a time where the shooter can separately aim in  
21 particularly intended targets. Rather to a great degree  
22 the rapid recoil from the gun and the fact that it will  
23 continue firing as long as the trigger is depressed will  
24 result in many rounds going in places that the shooter  
25 did not intend, even if the shooter was a law abiding

1 citizen who was otherwise engaged in lawful  
2 self-defense.

3 Q And I meant to ask you this earlier: In your  
4 opinion with respect to the rate of fire in the specific  
5 mass shooting incidents, you say that in the incidents  
6 that you looked at the rate of fire was substantially  
7 less than the semi-automatic firearms used were capable  
8 of?

9 A Yes.

10 Q What rate of fire are semi-automatic rifles  
11 capable of?

12 A People can easily fire -- probably the  
13 untrained individual can easily, if they were just told  
14 pull the trigger as fast as you can, they can probably  
15 fire six rounds in a second.

16 Q If they were firing six rounds in a second,  
17 would that be indiscriminate firing after the first  
18 round at least?

19 A Less indiscriminate. It is obviously an  
20 intermediate case.

21 Q Less indiscriminate than the fully automatic  
22 rifle case?

23 A Yes.

24 Q But once you start pulling the trigger pretty  
25 fast, it is pretty hard to get right back on target

1 until you stop firing, isn't it?

2 MR. SWEENEY: Objection.

3 THE WITNESS: Well, again, that's more of a  
4 hypothetical question than your phrasing suggests.  
5 Because even people intending to shoot a lot of  
6 people don't fire that fast; never mind defensive  
7 gun users who would only want to fire the minimum  
8 number of times necessary to preserve their own  
9 safety.

10 And so if even mass shooters don't fire that  
11 rapidly, even remotely as fast as six rounds per  
12 second, or even one round per second, which is  
13 probably about the fastest rate of fire I can  
14 actually document -- it is a totally hypothetical  
15 issue. How indiscriminate it is, when and if  
16 somebody actually fired as fast as they could pull  
17 the trigger, they just don't actually do that.

18 BY MR. FADER

19 Q Do you know whether James Holmes in the  
20 theater in Aurora, Colorado fired at a rate of more than  
21 one per second?

22 A Don't know one way or the other.

23 Q Do you know with Adam Lanza in Newtown when he  
24 was actually in the classrooms he fired at a rate of  
25 more than one round per second?